

Preliminary Determination Package ("Pre-NOIRA")
For Repealing
State Plan for the Provision of Children's Specialty Services
(VR 355-12-02)
(12 VAC 5-190)

Item 1: Specific Reason for the Repeal of the Regulation.

The Virginia Department of Health has completed the regulation review in accordance with Executive Order (EO) 15 (94) and is implementing the EO 15 recommendation to repeal the regulation. As described in Item 4, alternatives are available to fully satisfy the requirements in the *Code of Virginia*. The *State Plan for the Provision of Children's Specialty Services* does not need to be a regulation and can continue to exist as an agency guidance and reference document.

Item 2: Source of Legal Authority to Promulgate: Source and Scope of the Mandate.

The existing *State Plan* was promulgated under the authority of Sections 32.1-12 and 32.1-77 of the *Code of Virginia*. Section 32.1-12 of the *Code* authorizes the Board of Health to make, adopt and promulgate regulations. Section 32.1-77 of the *Code* authorizes the Board of Health to prepare, amend, and submit to the appropriate federal authority, a state plan for maternal and child health services and children's specialty services pursuant to Title V of the United States Social Security Act and any amendments thereto. The *State Plan* is not mandated by state law or federal law or regulation.

Item 3: Reasoning for Concluding the Contemplated Regulation is Essential.

The *State Plan* does not need to be a regulation, as discussed in the comprehensive review of this regulation conducted in accordance with EO 15.

Item 4: The Process by Which Less Burdensome and Intrusive Alternatives have been Considered.

Existence of the *State Plan* as a regulation is not the least burdensome method that will satisfy state and federal requirements. In fact, alternatives are in use. The Department's Children with Special Health Needs Program maintains policy and procedural manuals, position descriptions, and employee performance plans, and information systems for services managed by the program. These achieve the stated purposes of the *State Plan*. The *State Plan* will continue to exist as a policy manual and will be available to the public as a guidance document, in accordance with Section 9-6.14:7.2 of the *Code*. In addition, the program prepares an application annually pursuant to Title V of the United States Social Security Act in order to receive federal funds for provision of children's specialty services. The annual application must satisfy federal requirements, describe the programs and services that will be funded, and identify new and ongoing goals and objectives for the upcoming year.

Item 5: Assessing, the Impact of the Repeal of the Regulation on the Family

Repealing the *State Plan* as a regulation does not impact the families of children with special health care needs. Whether it is a regulation or a policy manual, families will be subject to the scope and limits of services that can be funded within available federal and state appropriations. Having the *State Plan* as a policy manual will actually allow a simple process for updating it as protection of public health requires from time to time. It can be kept more current since it will not have to complete the regulation process that takes months to complete.